

§ 1.992

38 CFR Ch. I (7–1–15 Edition)

and 20 or by written agreement between the employee and the VA under § 1.990.

(b) If the employee filed a request for a hearing as provided by § 1.984 before the expiration of the period provided for in that section, deductions will not begin until after the hearing official or administrative law judge has provided the employee with a hearing, and has rendered a final written decision.

(c) If the employee failed to file a timely request for a hearing, deductions will begin on the date specified in the notice of intention to offset, unless a hearing is granted pursuant to § 1.984(b).

(d) If an employee retires, resigns, or his or her employment ends before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to procedures for administrative offset (see 5 CFR 831.1801 through 831.1808, 31 CFR 901.3, and 38 CFR 1.912).

(Authority: 5 U.S.C. 5514)

[52 FR 1905, Jan. 16, 1987, as amended at 69 FR 62203, Oct. 25, 2004]

§ 1.992 Procedures for salary offset.

(a) *Types of collection.* A debt will be collected in a lump-sum or in installments. Collection will be in a lump-sum unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of the employee's disposable pay. In these cases, deduction will be by installments.

(b) *Installment deductions.* (1) A debt to be collected in installments will be deducted at officially established pay intervals from an employee's current pay account unless the employee and the Secretary agree to alternative arrangements for repayment. The alternative arrangement must be in writing and signed by both the employee and Secretary or designee.

(2) Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable

pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in three years. Installment payments of less than \$25 per pay period or \$50 a month will be acceptable only in the most unusual circumstances.

(c) Imposition of interest, penalties, and administrative costs. Interest, penalties, and administrative costs shall be charged in accordance with 31 CFR 901.9 and 38 CFR 1.915.

(Authority: 5 U.S.C. 5514; 38 U.S.C. 501)

[52 FR 1905, Jan. 16, 1987, as amended at 54 FR 34980, Aug. 23, 1989; 69 FR 62203, Oct. 25, 2004]

§ 1.993 Non-waiver of rights.

So long as there are not statutory or contractual provisions to the contrary, an employee's involuntary payment (of all or a portion of a debt) under these regulations will not be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

(Authority: 5 U.S.C. 5514)

VA will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owed the United States (unless expressly prohibited by statute or regulation); or

(b) VA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

(Authority: 5 U.S.C. 5514)

§ 1.995 Requesting recovery through centralized administrative offset.

(a) Under 31 U.S.C. 3716, VA and other creditor agencies must notify Treasury of all debts over 180 days delinquent so that recovery of such debts may be made by centralized administrative offset. This includes those debts that VA and other agencies seek from the pay account of an employee of another Federal agency via salary offset. Treasury and other disbursing officials will match payments, including Federal salary payments, against these debts. Where a match occurs, and all the requirements for offset have been met,

Department of Veterans Affairs

§2.2

the payment will be offset to satisfy the debt in whole or part.

(b) Prior to submitting a debt to Treasury for the purpose of collection by offset, including salary offset, VA shall provide written certification to Treasury that:

(1) The debt is past due and legally enforceable in the amount submitted to Treasury and that VA will ensure that any subsequent collections are credited to the debt and that Treasury shall be notified of such;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred to Treasury for offset within 10 years after VA's right of action accrues;

(3) VA has complied with the provisions of 31 U.S.C. 3716 and 38 CFR 1.912 and 1.912a including, but not limited to, those provisions requiring that VA provide the debtor with applicable notices and opportunities for a review of the debt; and

(4) VA has complied with the provisions of 5 U.S.C. 5514 (salary offset) and 38 CFR 1.980 through 1.994 including, but not limited to, those provisions requiring that VA provide the debtor with applicable notices and opportunities for a hearing.

(c) Specific procedures for notifying Treasury of debts for purposes of collection by centralized administrative offset are contained in the 31 CFR 285.7. VA and other creditor agencies may notify Treasury of debts that have been delinquent for 180 days or less, including debts that VA and other creditor agencies seek to recover from the pay of an employee via salary offset.

(Authority: 31 U.S.C. 3716; 38 U.S.C. 501)

[69 FR 62203, Oct. 25, 2004]

PROCEDURES FOR FINANCIAL INSTITUTIONS REGARDING GARNISHMENT OF BENEFIT PAYMENTS AFTER DISBURSEMENT

§1.1000 Garnishment of payments after disbursement.

(a) Payments of benefits due under any law administered by the Secretary that are protected by 38 U.S.C. 5301(a) and made by direct deposit to a financial institution are subject to 31 CFR part 212, Garnishment of Accounts Containing Federal Benefit Payments.

(b) This section may be amended only by a rulemaking issued jointly by the Department of the Treasury and the agencies defined as a "benefit agency" in 31 CFR 212.3.

[76 FR 9961, Feb. 23, 2011]

PART 2—DELEGATIONS OF AUTHORITY

Sec.

2.1 General provisions.

2.2 Delegation of authority to employees to issue subpoenas, etc.

2.3 Delegation of authority to employees to take affidavits, to administer oaths, etc.

2.4 Delegation of authority to order paid advertising for use in recruitment.

2.5 Delegation of authority to certify copies of documents, records, or papers in Department of Veterans Affairs files.

2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

2.7 Delegation of authority to provide relief on account of administrative error.

2.8 Delegation of authority to authorize allowances for Department of Veterans Affairs employees who are notaries public.

AUTHORITY: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

§2.1 General provisions.

In addition to the delegations of authority in this part, numerous delegations of authority are set forth throughout this title.

(Authority: 38 U.S.C. 512)

[64 FR 47111, Aug. 30, 1999]

§2.2 Delegation of authority to employees to issue subpoenas, etc.

(a) *Authority to issue subpoenas.* Employees occupying or acting in the positions designated in paragraph (b) of this section shall have the power to issue subpoenas for (by countersigning VA Form 2-4003) and compel the attendance of witnesses within a radius of 100 miles from the place of hearing and to require the production of books, papers, documents, and other evidence. Issuing officials shall use discretion when exercising this power.

(b) *Designated positions.* The positions designated pursuant to paragraph (a) of this section are: General Counsel, Deputy General Counsel, Chairman, Board